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| 10/648,004 | 08/26/2003 | Martin Lund | 14223US02 | 3309 |

23446 7590 10/30/2007
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| EXAMINER |
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PATEL, CHIRAG R

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| ART UNIT | PAPER NUMBER |
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2141

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10/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|---|-------------------------------|------------------------------|--|
| Advisory Action Before the Filing of an Appeal Brief | Application No. 10/648,004 | Applicant(s) LUND, MARTIN | |
| | Examiner Chirag R. Patel | Art Unit 2141 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-30.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Page.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


JASON CARDONE
SUPERVISORY PATENT EXAMINER

Tzeng discloses per Col 5 lines 46-59, "Each incoming data packet with prescribed layer 3 information detected contains a source and destination Internet protocol ("IP") address. Each data packet also contains a source and destination media access control ("MAC") address. The IP and MAC address are the identifiers corresponding to the second blade server in accordance with the above discussion and in light of applicant's specifications.

Examiner asserts Tzeng discloses "receiving at least one packet from a first blade server of a plurality of blade servers, at least two of which are coupled to a common bus". Tzeng discloses per (Col 3 lines 15-28) "Each of the integrated multiport switches 12 are interconnected by gigabit Ethernet links 16, enabling transfer of data packets between subnetworks (or subnets) 18a, 18b, and 18c. Hence, each subnetwork includes a switch 12, and an associated group of network stations 14." The interconnection of gigabit Ethernet links 16 clearly reads on claim limitations, common bus. The network stations are interpreted broadly as blade servers as they send a outgoing data packet per Col 4 lines 22-30 per applicant's disclosure [0008], "A server may be a computer system in a network that may be accessed by one or more users and/or other computers." (See MPEP 2111: 2111 [R-5] Claim Interpretation; Broadest Reasonable Interpretation) To further add, Tzeng discloses per Col 4 lines 22-30, "FIG. 3 is a flow diagram illustrating an example of the type of layer 3 processing that might be performed for an incoming data packet" and this passage clearly reads on "receiving at least one packet from a first blade server of a plurality of blade servers, at least a portion of which is coupled to a common bus".

In response to applicant's argument that Tzeng does not relate to communication information in a server, examiner points to MPEP 737.10. Examiner asserts further that the purpose of the preamble is in contrast to the claim language which recite "routing at least a portion of said at least one received packet to at least said second blade server" which was interpreted reasonably in light of the specifications and the title of the invention as communicating information between servers.